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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09-808,398	03/14/2001	Wolfgang Ludwig	21509	3668

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EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808.398

Examiner

Drew E Becker

Applicant(s)

LUDWIG, WOLFGANG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 11-20 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the apparatus can not be used to practice another process different from that of claims 1-10. This is not found persuasive because the apparatus of claims 11-20 can easily be used to heat or cool many different types of materials, for instance roasting nuts or cooling produce. Phrases such as "for receiving meat" are merely preferred methods of using the claimed apparatus.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The abstract of the disclosure is objected to because it contains legal phraseology such as "alleged". Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 12 is objected to because of the following informalities: line 2 recites "heating an cooling", "an" should be replaced with "and". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 12 recites a "refrigeration unit for circulating a cooling liquid through said jacket and a heater for passing a heating liquid through said jacket". It is not clear whether applicant is claiming a cooling unit and heating unit, or a means to convey the fluids.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/36233.

WO 96/36233 teaches a meat processing apparatus comprising an agitating vessel (Figure 1, #2) and means for selectively heating and cooling (Figure 4, #26). Phrases such as "for receiving bodies of meat in contact with a treating liquid" are merely preferred methods of using the claimed apparatus and as such are not given patentable weight.

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Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/36233 as applied above, in view of Horn et al [Pat. No. 6,105,490].
- WO 96/36233 teaches the above mentioned components. WO 96/36233 also included circulation of cooling liquid and heating liquid (page 5, line 7) which would have inherently included a refrigeration unit and heater, respectively. WO 96/36233 does not teach a jacket. Horn et al teach a meat processing apparatus comprising a jacket for heat exchange fluid (Figure 2, #30). It would have been obvious to one of ordinary skill in the art to incorporate the jacket of Horn et al into the invention of WO 96/36233 since both are directed to meat processing devices, since WO 96/36233 already included means for circulating heating and cooling fluids (Figure 4, #42 & 46), since Horn et al circulated heat transfer fluid through both the jacket and the mixing vanes (Figure 3), and since the increased surface area for heat exchange provided by a jacket would have provided quicker, more responsive control of temperature within the device.
11. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/36233 as applied above, in view of Burkhardt [Pat. No. 4,120,981].
- WO 96/36233 teaches the above mentioned components. WO 96/36233 does not teach a temperature sensor connected to the heat transfer means and extending through a

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wall of the device. Burkhart teaches a meat processing device comprising a vessel with a wall (Figure 5, #18), a temperature sensor extending through the wall and thermally insulated from the wall by a layer of air (Figure 5, #54), and heaters controlled via the output of the temperature sensor (Figure 5, #49). It would have been obvious to one of ordinary skill in the art to incorporate the temperature sensor of Burkhart into the invention of WO 96/36233 since both are directed to meat processing devices, since WO 96/36233 already included circulation of heating and cooling fluids (page 5, line 7), and since the temperature sensor of Burkhart would have provided an efficient means for controlling the temperature within the device of WO 96/36233.

12. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/36233, in view of Burkhart, as applied above, and further in view of DE 3119496A.

WO 96/36233 and Burkhart teach the above mentioned components. WO 96/36233 and Burkhart do not teach a temperature sensor which can be thrust into the meat and which has plural sensing regions along its length. DE 3119496A teaches an apparatus comprising a temperature probe which is thrust into a meat product (Figure 2, #1-2) and which has plural sensing regions along its length (Figure 3, #I-IV). It would have been obvious to one of ordinary skill in the art to incorporate the temperature probe of DE 3119496A into the invention of WO 96/36233, in view of Burkhart, since all are directed to meat processing devices, since WO 96/36233 already included heating and cooling means (page 5, line 7), since Burkhart already included a temperature sensor within the device (Figure 5, #54), and since the temperature probe of DE 3119496A would have

provided a more accurate heating, or cooling, profile due to its multiple temperature values at different depths.

13. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/36233 as applied above, in view of Horn et al and Burkhart.

WO 96/36233 teaches the above mentioned components. WO 96/36233 also included a massaging drum (Figure 1, #2) and paddles (Figure 3, #16). WO 96/36233 does not teach a rotary paddle, a jacket, a temperature sensor connected to the heat transfer means and extending through a wall of the device, and a programming means. Horn et al teach a meat processing apparatus comprising a jacket for heat exchange fluid (Figure 2, #30) and a rotary paddle (Figure 1, #36). Burkhart teaches a meat processing device comprising a vessel with a wall (Figure 5, #18), a temperature sensor extending through the wall and thermally insulated from the wall by a layer of air (Figure 5, #54), heaters controlled via the output of the temperature sensor (Figure 5, #49), and a controller with programming means (Figure 5, #58). It would have been obvious to one of ordinary skill in the art to incorporate the temperature sensor and controller of Burkhart into the invention of WO 96/36233 since both are directed to meat processing devices, since WO 96/36233 already included circulation of heating and cooling fluids (page 5, line 7), and since the temperature sensor of Burkhart would have provided an efficient means for controlling the temperature within the device of WO 96/36233. It would have been obvious to one of ordinary skill in the art to incorporate the jacket and rotary paddle of Horn et al into the invention of WO 96/36233 since both are directed to meat processing devices, since WO 96/36233 already included means for circulating

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heating and cooling fluids within paddles (Figure 4, #42 & 46), since Horn et al circulated heat transfer fluid through both the jacket and the rotary paddle (Figures 1-2, #30 & 36), and since the increased surface area for heat exchange provided by a jacket and a rotary paddle would have provided quicker, more responsive control of temperature within the device.

14. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/36233, in view of Horn et al and Burkhart, as applied above, and further in view of DE 3119496A.

WO 96/36233, Horn et al, and Burkhart teach the above mentioned components. WO 96/36233, Horn et al, and Burkhart do not teach a temperature sensor which can be thrust into the meat and which has plural sensing regions along its length. DE 3119496A teaches an apparatus comprising a temperature probe which is thrust into a meat product (Figure 2, #1-2) and which has plural sensing regions along its length (Figure 3, #I-IV). It would have been obvious to one of ordinary skill in the art to incorporate the temperature probe of DE 3119496A into the invention of WO 96/36233, in view of Burkhart, since all are directed to meta processing devices, since WO 96/36233 already included heating and cooling means (page 5, line 7), since Burkhart already included a temperature sensor within the device (Figure 5, #54), and since the temperature probe of DE 3119496A would have provided a more accurate heating, or cooling, profile due its multiple depths of temperature values.


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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Loeffler et al [Re. 31,833] and Ludwig [Pat. No. 5,405,630] teach meat tumbling devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.


Drew E Becker
Examiner
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May 2, 2003